

REMARKS / ARGUMENTS

The present application includes pending claims 1-29, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

Claims 1-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by USPP 2002/0104099 ("Novak"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Examiner Interview

The Applicant respectfully thanks the Examiner for the telephone interview conducted between the undersigned Attorney and Examiner Schnurr on March 24, 2009. The subject matter discussed during the interview was claim 1, as presented in the above listing of claims. **After reviewing the amended claim 1, the Examiner acknowledged that claim 1, as presented above, overcomes the Novak reference. The Examiner also communicated an Interview Summary (dated March 27, 2009), which further confirmed that claim 1, as presented above, overcomes Novak and, consequently, a new search will be conducted. Apparently, the Examiner has inadvertently forgotten his acknowledgment and communication mentioned above, since a new search was not conducted and the current Office Action maintains the rejection under Novak.**

The Applicant assumes that, based on the above, the Examiner will withdraw the rejection under Novak. Nevertheless, Applicant has updated the argument herein below in response to the Office Action.

REJECTION UNDER 35 U.S.C. § 102

II. Novak Does Not Anticipate Claims 1-29

The Applicant first turns to the rejection of claims 1-29 under 35 U.S.C. § 102(e) as being anticipated by Novak. With regard to the anticipation rejections under § 102,

MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See id. (internal citation omitted).

Without conceding that Novak qualifies as prior art under 35 U.S.C. § 102(e), the Applicant respectfully traverses this rejection as follows.

A. Rejection of Independent Claims 1, 12, 16 and 27 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited by the Applicant in independent claim 1.

The Office Action states the following:

Consider claim 1, Novak clearly teaches a system for supporting multiple users of a communication device (Fig. 1), comprising:

a first communication device communicatively coupled to a communication network at a first geographic location; (Fig. 3: STB 308 is coupled to the Internet 302, [0045].)

media content disposed in the communication network or the first communication device, (Media content can be stored in the STB, Fig. 1 [0032], or on the network, Fig. 3 [0047].), the media content comprising personal media; (The content is user created, [0062].)

a software platform residing on the first communication device ([0077]), the software platform receiving authentication information associated with a first user of the first communication device, (Fig. 11: Access to the synthetic channel can be password protected, [0084].) and facilitating a display of a user-defined selection from the media content by the first communication device (Fig. 11: Block 114, [0085]) in a user-defined layout (Fig. 7: The user defines the layout of the display, [0063].), wherein the software platform is operable to push the media content

arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, (Fig. 7: The content is broadcast from the upload device to the end user, [0064]-[0065].) and wherein the selection from the media content is defined by the first user ([0062]) and corresponds to the received authentication information. (Only authorized users can view the content, [0084])

See Office Action at page 3-4. With regard to the software platform functionalities, the Office Action relies for support on FIGS. 7 and 11 of Novak. Initially, the Applicant points out that **Novak discloses two distinct roles for users within the media system of FIG. 1 – individuals who upload media (uploaders) and end users (e.g., users of STB 308 or 152).** For example, certain individuals (e.g., upload source 122) can upload media objects to a server and specify a manner in which the media objects are to be played as a media program to an end user. The media program can be provided to an end user via a synthetic channel, which can be tuned to or selected by the end user as if tuning to a conventional television broadcast channel. See Novak at Abstract and ¶ 0010. Novak, at FIGS. 5-7, discloses how an upload

source can organize/schedule the synthetic channel. Novak, at FIG. 11, discloses how an end user receives/views the synthetic channel. In other words, the synthetic channel is set up by the uploader, or the upload source, and it is only viewed by the end user, where the upload source 122 is different from the viewer (end user) of the EPG 153. Steps 1104-1106 of FIG. 11 and the corresponding description in ¶ 0078 relate to the upload source 122, and not to the end-users (the Applicant notes the specific reference that uploaded media is broadcasted to the end users; See lines 10-11 of ¶ 0078). In this regard, the platform used by the upload source 122 in steps 1104-1106 is not used by the end user STB 308.

The Office Action is equating the password entered by the end user for protecting access to the synthetic channel (Novak at ¶ 0084) to Applicant's "authentication information associated with a user of the communication device," as recited in Applicant's claim 1. In other words, Novak's entered password is associated with the end user viewing the EPG 153. However, **the end user does not have any control over what media is included in the media channel as such functionality is reserved for the uploader, or the upload source 122. In this regard, Novak does not disclose "wherein the selection from the media content is defined by the first user"** (of the first communication device, i.e., the end user of STB 308 or 152), as recited in Applicant's claim 1.

Furthermore, the Applicant points out that the Office Action equates Novak's set-top box 308 (or 152) with Applicant's "communication device." However, **Novak does**

not disclose that the STB 152 has the functionality of pushing media content arranged in user-defined layout, directly via a communication network to a second communication device associated with a second user at a second geographic location for consumption at the second geographic location. Figs. 4 and 5 of Novak disclose that the STB can be used to simply upload personal videos to a server. Novak's STB is not used to push media content that has been arranged in a user-defined layout to another user at another location. Furthermore, Novak's STB uploads the personal video at the server only for purposes of storing it. **Novak does not disclose or suggest that the uploaded personal video is also "consumed" at the location of the server. On the contrary, the uploaded personal video information is subsequently communicated to yet another location for purposes of preparing the synthetic channel. Therefore, Novak also does not disclose or suggest "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Applicant's claim 1.**

The Examiner states the following in the "Response to Arguments" section:

In response to applicant's argument (Remarks pgs. 14-17) that Novak (US 2002/0104099) does not teach the limitation of "push[ing] the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location," the examiner respectfully disagrees. Novak discloses the first user scheduling

broadcast times for the content during which content will be sent to the second user ([0064]-[0065]).

See Office Action at page 2. The Examiner relies for support on paragraphs 0064-0065, which relate to Novak's Fig. 7 and organizing the synthetic channel by the uploader or the upload source 122. **As explained above, the uploaded personal video information is subsequently communicated to yet another location for purposes of preparing the synthetic channel (e.g., see paragraph 0068). The Examiner is also referred to Fig. 1, where it can be clearly seen that there is no direct connection between the upload source 122 and the STB 152 at the end-user location.** The Applicant, therefore, maintains that Novak does not disclose or suggest "push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Applicant's claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 12, 16, and 27 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 12, 16, and 27 are also allowable over the reference cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-11, 13-15, 17-26 and 28-29

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 12, 16 and 27 under 35 U.S.C. § 102(e) as being anticipated by Novak has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-11, 13-15, 17-26 and 28-29 depend from independent claims 1, 12, 16 and 27, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-11, 13-15, 17-26 and 28-29.

In general, the Office Action makes various statements regarding claims 1-29 and the cited references, which statements are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-29 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 08-SEP-2009

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